IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE K.C. BHANU**

**WRIT PETITION NO : 2153 of 2005**

Between:

K. Yellaiah S/o Ankaiah Conductor,
Boinpally, Karimnagar District

**..... PETITIONER**

AND

The Depot manager, APSRTC,

Korutla Depot, Karimnagar District

**.....RESPONDENT**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction, more in the nature of *Writ of Mandamus*, declaring the office order dt 19-5-1997 as illegal and arbitrary and set aside the same with all consequential benefits including arrears and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

**Counsel for the Petitioner: MR.P.GOVINDA RAJULU**

**Counsel for the Respondent: SMT.P.RAJANI REDDY**

**The Court made the following:**

**ORDER:**

For declaring the action of the respondent in issuing the office order dated 19.05.1997 imposing punishment of withholding of one annual increment for a period of one year with cumulative effect, as illegal and arbitrary, the present

writ petition is filed.

2. The petitioner was working as a Driver in the respondent-Corporation. He was issued a charge memo on 22.04.1997 and after receiving the explanation of the petitioner, final orders were passed on 19.05.1997 imposing the punishment of withholding one annual increment for a period of one year with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of annual increment, with cumulative effect is a major penalty and the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the impugned order is illegal and it is liable to be set aside.

3. Learned counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without enquiry. The petitioner, therefore, seeks to declare that the order is illegal and it is liable to be set aside.

4. The petitioner after receiving the adverse orders slept over the matter for a period of 7 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, in view of the judgment of the Supreme Court in Kulwant Singh Gill's case (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of one annual increment without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he has been imposed penalty of reduction of one annual increment without cumulative effect.

The writ petition is accordingly disposed of with the above observation. No

costs.

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(K.C. BHANU, J)

Date: 10.02.2005.

Ksn

ASSISTNANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Depot manager, APSRTC,

Korutla Depot, Karimnagar District

2. 2 CD copies

***Form-NIC-OGS/WP{****AVLR*